

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

HERB REED ENTERPRISES, INC., et al.,

2:10-CV-1981 JCM (RJJ)

Plaintiffs,

V.

JEAN BENNETT, et al.,

## Defendants.

## ORDER

Presently before the court is plaintiff's motion for voluntary dismissal pursuant to Federal Rule of Civil Procedure 41(a). Defendant Jean Bennett has not filed an opposition.

18 Plaintiff asserts that default judgment has been entered against defendants Five Platters, Inc.  
19 and Personality Productions, Inc. Plaintiff further asserts that after the grant of partial summary  
20 judgment, only count IV of the complaint, asserting slander of title, remains against defendant Jean  
21 Bennett. Plaintiff does not wish to pursue this claim.

22       Federal Rule of Civil Procedure 41(a)(1) provides that a plaintiff may, without court order,  
23 dismiss an action by filing “a notice of dismissal before the opposing party serves either an answer  
24 or a motion for summary judgment” or “a stipulation of dismissal signed by all parties who have  
25 appeared.” Neither of these possibilities exist in the instant case because Bennett filed an answer  
26 and cannot be located for purposes of stipulating to the dismissal. Thus, plaintiff must resort to the  
27 procedure detailed by Rule 41(a)(2). That rule provides: “An action may be dismissed at the

1 plaintiff's request only by court order, on terms that the court considers proper." Fed. R. Civ. P.  
2 41(a)(2).

3 Though the court's docket indicates that this matter was closed on July 1, 2011, it does  
4 appear that the slander of title claim remains. As plaintiff no longer wishes to pursue this claim  
5 against Bennett, good cause exists to dismiss the suit.

6 Accordingly,

7 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, that plaintiff's motion for  
8 voluntary dismissal (doc. #68) be, and the same hereby is, GRANTED.

9 DATED September 23, 2011.

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11 *James C. Mahan*  
12 **UNITED STATES DISTRICT JUDGE**  
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